

THIRD DIVISION

[G.R. No. 184237, September 21, 2016]

HENRY H. TENG, PETITIONER, VS. LAWRENCE C. TING, EDMUND TING AND ANTHONY TING, RESPONDENTS.

DECISION

PEREZ, J.:

Assailed in this Petition for Review is the 2 May 2008 Decision^[1] of the Court of Appeals in CA-GR SP No. 100224. The appellate court had affirmed two Orders^[2] issued by the Regional Trial Court (RTC) of Manila, Branch 21 directing the exclusion of certain properties allegedly belonging to respondents.

Teng Ching Lay died intestate in 1989, leaving as heirs, her child from her first marriage, Arsenio Ting (Arsenio) and from the second marriage, petitioner Henry Teng and Anna Teng. Arsenio married Germana Chua and bore three (3) sons, respondents Lawrence, Edmund and Anthony Ting. Arsenio predeceased his father.

In the intestate proceedings for the settlement of Arsenio's estate in 1975, then Court of First Instance (CFI) of Agusan del Norte and Butuan City approved the project of partition which included, among others, a residential property located at Dr. A. Vasquez Street in Malate, Manila (Malate property), which was adjudicated in favor of respondents.

The subject property became the subject of a case dispute in *Hko Ah Pao v. Ting*, later docketed as G.R. No. 153476.^[3] Petitioner claimed that said property is owned by Teng Ching Lay and the latter merely entrusted the same to Arsenio. Eventually, on 27 September 2006, this Court had ruled that Arsenio owned the subject property.

Meanwhile on 27 April 1992, petitioner filed a verified petition for the settlement of the estate of Teng Ching Lay with the RTC of Manila. Petitioner was appointed as administrator of the estate in 1999.

In a Manifestation^[4] dated 17 March 2005, petitioner submitted the Estate's Inventory as of 31 December 2004 and its Statement of Income and Expenses for the period 30 January 1989 to 31 December 2004.^[5] The inventory included the Malate property and other properties entrusted to Arsenio such as personal properties in the form of investments, cash and equipment, and other real properties in Butuan City.

Alleging that the properties belonging to Arsenio are included in the inventory, respondents filed their Motion for Exclusion of Properties owned by Arsenio Ting and his Heirs. These properties included the Malate properties and the properties were

described as "Add: Other properties entrusted to Arsenio Ting."^[6] Petitioner opposed the exclusion arguing that these properties were held by Arsenio in trust for Teng Ching Lay because of the constitutional prohibition against Teng Ching Lay, an alien who cannot own lands in the Philippines. Respondents stressed that the properties of Arsenio being claimed for the estate of Teng Ching Lay were acquired by them through inheritance from their father Arsenio whose estate was judicially settled in 1975.

In an Order^[7] dated 12 March 2007, the trial court, through Judge Amor A. Reyes, granted the Motion for Exclusion. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the Motion for Exclusion of Properties owned by Arsenio Ting is hereby GRANTED. The properties included in the inventory which as early as October 23, 1975 had already been partitioned among the heirs of Arsenio Ting entitled In the matter of the Intestate Estate of Arsenio O. Ting.^[8]

The trial court found that the following properties had already been the subject of a judicial partition in the intestate proceedings for Arsenio:

1. Residential lot covered by TCT No. 134412 located at 1723 A. Vasquez St. Malate, Manila;
2. Residential lot located at Maug, Butuan City covered by T.D. NR-03041-0291 in favor of deceased Teng Ching Lay and Jacinto Chua consisting of 18,989 sq. m. (50%) (no TCT available). Tax Declaration only P474,675.00;
3. Industrial lot located at Maug, Butuan City, covered by T.D. No. NR-03-041-029 in favor of Teng Ching Lay and Jacinto Chua consisting of 26,826 sq. m. (50%) (no TCT available). Tax Declaration only P1,951,875.00; and
4. And those properties included in the Inventory as of December 31, 2004 filed by the Administrator with the Statement "Add: other properties entrusted to Arsenio Ting."^[9]

The trial court based its finding on the following: 1) Order dated 23 October 1975 of the then CFI of Agusan Del Norte and Butuan City; 2) the Project of Partition dated 1975; 3) the complete Inventory and appraisal of Real Properties of the Estate under Administration; and 4) other documents relative to the judicial settlement of Estate of Arsenio Ting that does not form part of the estate of Teng Ching Lay entitled "In the matter of Intestate Estate of Arsenio Ting Sp. Proc. No. 384."^[10]

Petitioner filed a motion for reconsideration. It was partly granted by the trial court in an Order^[11] dated 7 June 2007. The fallo reads:

WHEREFORE, premises considered, the Motion for Reconsideration is hereby partially GRANTED. What remains the property of the estate are items 2 and 3 namely[:]

1) Residential lot located at Maug, Butuan City covered by T.D. NR-03041-0291 in favor of deceased Teng Ching Lay and Jacinto Chua consisting of 18,989 sq. m. (50%) (no TCT available). Tax Declaration only P474,675.00;

2) Industrial lot located at Maug, Butuan City, covered by T.D. No. NR-03-041-029 in favor of Teng Ching Lay and Jacinto Chua consisting of 26,826 sq. m. (50%) (no TCT available). Tax Declaration only P1,951,875.00.

Residential lot covered by TCT No. 134417 located at 1723 A. Vasquez St., Malate, Manila and the properly included in the Inventory of December 31, 2004 filed by the Administrator with statement; Add other properties entrusted to Arsenio Ting should be excluded in the estate.

The petitioner's allegation that the properties entrusted to Arsenio Ting are advanced legitime, should be ventilated in another forum.^[12] (Emphasis Supplied)

Aggrieved, petitioner filed a petition for certiorari before the Court of Appeals.

On 2 May 2008, the Court of Appeals denied the petition for lack of merit. The Court of Appeals found that the trial court did not act with grave abuse of discretion in issuing the assailed Orders excluding some properties from the Estate of Teng Ching Lay. The appellate court ruled that the trial court could determine whether or not properties may be included in the inventory to be administered by the administrator and any dispute as to ownership may be resolved in another forum. The appellate court affirmed the trial court's basis for exclusion. The appellate court also pointed out that in the case of *Hko Ah Pao*, the Court categorically ruled that the Malate property belonged to the estate of Arsenio.

Petitioner solely argues that the advancement alleged to have been made by the deceased to any heir should be heard and determined by the probate court, the RTC of Manila Branch 21 in this case, in accordance with Section 2, Rule 90 of the Rules of Court.

The petition is bereft of merit.

In the guise of raising a legal issue, petitioner urges the court *a quo* to resolve once again an ownership issue. Section 2, Rule 90 of the Rules of Court states that "questions as to advancement made, or alleged to have been made, by the deceased to any heir may be heard and determined by the court having jurisdiction of the estate proceedings; and the final order of the court thereon shall be binding on the person raising the questions and on the heir." But the rule, as correctly interpreted by respondent, presupposes a genuine issue of advancement.

Legitime is defined as that part of the testator's property which he cannot dispose of because the law has reserved it for certain heirs who are, therefore, called compulsory heirs.^[13] Petitioner essentially asserts that properties were actually owned by Teng Ching Lay, and that Arsenio was merely a trustee of the said properties. Verily, petitioner is claiming that Teng Ching Lay owned the Mai ate